

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DARRYL DESHON BREWER,)	
)	
Petitioner,)	
)	
v.)	CIV-05-780-R
)	
ED L. EVANS,)	
)	
Respondent.)	

ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Robert E. Bacharach entered November 23, 2005. Although Petitioner was granted an extension of time until January 13, 2006, in which to file his Objection, no Objection to the Report and Recommendation has been filed. Petitioner did, however, file a “Motion to File Amended Habeas-Corpus Petition” on January 5, 2006. By his motion, Petitioner seeks leave to amend his petition for a writ of habeas corpus to “adequately present to the . . . [court] the issues of Ineffective Assistance of Counsel.” Petitioner notes that the court never ordered Petitioner to file a brief in support of his habeas petition.

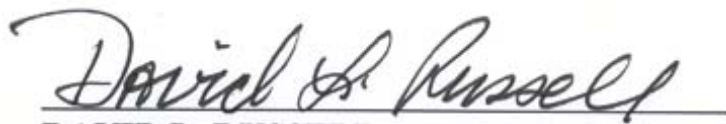
Petitioner included ineffective assistance of trial and appellate counsel as grounds three and four in his original petition herein and several bases of alleged ineffectiveness which were carefully considered by the Magistrate Judge in his Report and Recommendation. Petitioner was not ordered to file a brief supporting his petition; however, nothing prevented Petitioner from filing such a brief if he thought it was necessary to adequately present his grounds for relief. Finally, Petitioner has not included a proposed Amended Petition with

his motion, cited any bases for claims of ineffective assistance of counsel in his motion not included in his original Petition or not considered by the Magistrate Judge. Nor has he explained in what way his claims for ineffective assistance of counsel were not previously adequately presented.

Leave to amend a pleading is to be “freely given when justice so requires.” F.R.Civ.P. 15(a). In this case, justice does not require that Petitioner be allowed to amend his petition for the reasons set forth above.

In accordance with this Order, Petitioner’s motion for leave to amend his petition [Doc. No. 29] is DENIED and the Report and Recommendation of the Magistrate Judge [Doc. No. 26] is ADOPTED in its entirety, there being no Objection to it and the extended deadline for filing an Objection having passed. Therefore, the petition of Darryl Deshon Brewer for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is DENIED.

It is so ordered this 26th day of January, 2006.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE